

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
: Docket #20cv8924
IN RE NEW YORK CITY POLICING :
DURING SUMMER 2020 DEMONSTRATIONS :
: New York, New York
: August 9, 2021
----- : TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE GABRIEL W. GORENSTEIN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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For Payne Plaintiffs: NEW YORK CIVIL LIBERTIES UNION
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For Sierra Plaintiffs: RICKNER PLLC
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For Defendants: NEW YORK CITY LAW DEPARTMENT
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None					

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
None				

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2 THE CLERK: This is In Re: New York City
3 Policing During Summer 2020 Demonstrations, 20cv8924.

4 Counsel, please state your appearances for the
5 record, starting with plaintiff.

6 MR. ROB RICKNER: Hello, this is Rob Rickner for
7 the Sierra plaintiffs. I'll be handling argument today.
8 Good morning, Your Honor.

9 MR. DANIEL LAMBRIGHT: Good morning, Your Honor,
10 this is Daniel Lambright on behalf of the Payne
11 plaintiffs.

12 MR. TRAVIS ENGLAND: Good morning, Your Honor,
13 this is Travis England on behalf of the People.

14 MR. GIDEON OLIVER: Good morning, Your Honor,
15 Gideon Oliver on behalf of the Sow plaintiffs.

16 HONORABLE GABRIEL W. GORENSTEIN (THE COURT): And
17 for defendants?

18 MS. DARA WEISS: This is Dara Weiss on behalf of
19 defendants, good morning, Your Honor.

20 THE COURT: Okay, welcome, everyone, we're being
21 recorded for purposes of preparing a transcript; however,
22 any other recording of the proceeding is forbidden, as is
23 any dissemination.

24 We're here based on letters dated August 3rd and
25 August 5th. I have to say, I have never been more confused

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about what's going on. And just to cut to the chase, is it correct, Ms. Weiss, that you have all the documents sitting there ready to go, ready to be inspected and copied?

MS. WEISS: They are in a computer in the Office of the Corporation Counsel ready to be inspected. That is the closed CCRB files and the IAB files that were part of the Department of Investigation files. The open CCRB files which are due for production on the, at the end of this week, are half on a computer at the Office of the Corporation Counsel, they were actually bigger, the files were bigger than the computer could hold so we had to get, and I'm not hugely technologically savvy but it's my understanding that they had to get another drive to transfer the rest of the open files. But hopefully that will be done by tomorrow.

So the plaintiffs are welcome to arrange a day and time to come and inspect the files and let us know which they would like copied. There's an enormous amount of information and a great deal of it is duplicative of what they've already got.

THE COURT: So I'm not talking about the open files, I'm talking about the ones that were due on the 31st, are they ready to be, I gather they're ready to be inspected, are they ready to be --

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MS. WEISS: Yeah.

THE COURT: Okay, what's stopping the plaintiffs from just saying copy them all?

MS. WEISS: We're hoping that they don't want them all because they've got a majority of them, it's --

THE COURT: Why do you care?

MS. WEISS: Because it's burdensome to copy them. Again, it's time consuming, it's costly --

THE COURT: I don't understand what the time, these are not paper files, I assume?

MS. WEISS: No, they're not, but it's my understanding from what I've heard from more technologically savvy folks in my office, it's taking days to get them copied, it's not just pop in, you know, a disk or whatever it is and copy them, it's enormous amounts of materials. And it's time consuming and it takes person hours and computer hours, and we're trying to get depositions scheduled and done and produce documents in advance of those depositions pursuant to Your Honor's orders at the last conference we've had, and get those done. And it's yet another thing that we're hoping to get down to, to not have to reproduce materials that have been produced already and letting the plaintiffs come and see what they actually need and want and tell

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us that.

THE COURT: Mr. Rickner, do you have any problem with getting all of it?

MR. RICKNER: Well, I want all of it. I don't see the --

THE COURT: You just answered my question, that's fine.

MR. RICKNER: I want all of it.

THE COURT: Yes. Ms. Weiss, the objection on burdensomeness is conclusory and makes no sense to me, it's not going to take any attorney time. I don't understand what the expense it. Maybe it takes a few hours or whatever it is of sitting there for it to get copied, but the claim of burden is completely conclusory. So I'm overruling it, you should produce it, a copy to the plaintiffs. If, you know, you want to make them pay for the external drive, that's fine but, you know, unless there is something I'm missing, that's it.

Anything else, Ms. Weiss?

MS. WEISS: No, Your Honor.

THE COURT: Okay. Anything else from plaintiffs?

MR. RICKNER: Just one thing, Your Honor.

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2 What we would ask is that they simply produce the
3 documents to us rather than going through their data
4 processing system which could be quite lengthy. We
5 will take on the burden of Bates stamping them. All
6 they have to do is take the materials that they have
7 right now, provide it to the Attorney General's Office
8 as soon as possible at 28 Liberty, and then we will
9 handle the rest of the steps that ordinarily go on,
10 because we need these materials yesterday.

11 THE COURT: Yes, no, there should be no delay.
12 Ms. Weiss, any reason? I mean if this isn't going to
13 happen by, you know, two or three days from now, then
14 there is going to be a problem.

15 MS. WEISS: I'm not quite sure what Mr. Rickner
16 means by having him Bates stamp, but we can produce it
17 without Bates stamping it, but I would object to having
18 plaintiffs Bates stamp it. Because we're in the process of
19 Bates stamping other materials and that would certainly
20 interfere with our stamping and I fear that there would be,
21 you know, several documents with the same numbers. If they
22 want to identify documents in some other way, I have no
23 objection to that.

24 THE COURT: Well they can use their own Bates
25 stamp numbering system, none of us can stop them from doing

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that.

MS. WEISS: No, they can certainly do as they please with that, as long as it doesn't interfere with the Bates stamping that the defendants have been using.

THE COURT: Well I assume the plaintiffs are using a different numbering system or a different identifier, is that right?

MR. RICKNER: We can avoid this problem through a simple meet and confer. What's important is we get the date ASAP.

THE COURT: Okay. All right, any questions about my ruling, Mr. Rickner?

MR. RICKNER: No, Your Honor, thank you.

THE COURT: Ms. Weiss, anything?

MS. WEISS: No, Your Honor.

THE COURT: Okay. Thank you, everyone, good-bye.

(Whereupon the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, In Re: New York Policing During Summer 2020 Demonstrations, docket #20cv8924, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Date: August 12, 2021